



**State Mining and Geology Board  
Regular Business Meeting Minutes  
for  
April 12, 2001**

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The meeting was called to order, and with seven members present a quorum was established. (Board Member Donna Thompson was absent.)

Chairman Allen Jones welcomed four of the five new Board members and asked that each member introduce himself or herself and describe their personal expertise as it relates to their Board membership.

Executive Officer John Parrish announced that Consent Item #2 (Certification of Surface Mining Ordinance in the Town of Mammoth Lakes) has been postponed at the request of the Town. He added that Item #3 (SMARA Mineral Land Classification Five -Year Plan) has been modified and will be moved from Consent to New Business for action.

**CONSENT**

**Item 1**

The minutes of the March 8<sup>th</sup> meeting were approved by a majority voice vote after being moved by Board Member Robert Griego.

**REPORTS**

**DEPARTMENT OF CONSERVATION:**

▪ **Director's Report**

Director Darryl Young reviewed Department actions during the month. These included:

- ❖ The Department's budget for fiscal year 2001/2002 has been heard by subcommittees of both the Assembly and Senate. As previously discussed, the Legislative Analyst Office remains concerned with SMARA compliance reporting.
- ❖ The SMARA funding structure has been reviewed for possible adjustments.
- ❖ The month of April has been designated as Earthquake Preparedness Month and the Department is organizing public outreach efforts with the Office of Emergency Services.
- ❖ The Abandoned Mine Task Force is being restored and the SMGB was asked to participate again in this group.

- ❖ Goals and Objectives of Strategic Plans for the Division of Mines and Geology and the Office of Mine Reclamation were shared.
- ❖ As part of DMG's strategic plan goals to create professional partnerships, State Geologist Jim Davis highlighted a talk he gave the USGS on what governs changes in past, present, and the future in state and federal geological organizations.
- ❖ As part of OMR's strategic plan goals to reduce the number of mines out of compliance, Assistant Director Glenn Stober talked about staff assistance offered to both lead agencies and mine operators as well as the responsiveness to the February deficiency notices issued by the Department.

Mr. Stober provided an update of the Department's activities in assisting Yuba County with updating its SMARA program. He indicated some forward progress but voiced concerns that the County is allowing some of the questionable mining sites to continue operations, and that recently issued 15-day notices allows the Department to take enforcement actions if warranted. For the new members' benefit, Mr. Stober explained what enforcement steps the Department takes to deal with such issues as found in Yuba County. He added that some issues in the County (adequacy of reclamation plans and vested rights determinations) currently are in litigation.

Pointing out a critical need of staff resources, Director Young summed up that only 20 of the 25 positions were filled in the Office of Mine Reclamation.

▪ **State Mining and Geology Board**

Chairman Jones presented an engraved plaque and a resolution to Bob Grunwald, Immediate past Board Chairman commending his service to the Board. Director Young presented Mr. Grunwald with a handwritten letter from Governor Gray Davis thanking him for 30 years of service to the State. State Geologist Jim Davis presented Mr. Grunwald with a Certificate of Appreciation from his staff.

Mr. Jones announced that a similar presentation recognizing the work of past member Robert Munro would be arranged for a meeting in the near future when Mr. Munro could attend.

Mr. Jones announced that the Policy Committee will be constituted by Members Griego, Richard Ramirez, and himself and the remaining committee memberships will be announced at the next meeting.

Dr. John Parrish reviewed Board activities and items of interest. These included:

- Progress report on lead agencies obtaining their surface mining ordinance to regain their SMARA authority that the SMGB holds
- Update on the United Rock Products appeal. The environmental review document is to be circulated in about 30 days.
- Copies of letters and communications received after the meeting packets were distributed. These included:
  - letters issued by the Department of Conservation regarding 49 mines that have not been properly inspected.
  - Bureau of Land Management's newsletter announcing a proposal to suspend the 3809 hard rock surface mining regulations
  - USGS summary of interagency study of mercury contamination associated with abandoned mined lands

**Geohazards Committee:** Board Member Ramirez had nothing to report for this Committee.

**Mineral Conservation Committee:** Committee Member Jones had nothing to report for this Committee.

**Mining Reclamation Standards Committee:** Committee Chair Jones had nothing to report for this Committee.

**Policy Committee:** In anticipation of the afternoon's regulatory workshop, Mr. Jones clarified that the Board's method for discussing the need for the proposed regulations was an appropriate one.

**Legal Council:** Deputy Attorney General William Cunningham provided direction on applicability of surface mining laws on Indian lands. Relying on an informal opinion written in 1990, Mr. Cunningham said not much has altered that opinion since that time.

Mr. Cunningham discussed a part of the Informal Opinion that describes the spectrum of state influence on tribal lands and the application of state laws to non-tribal members on tribal lands. In fact, he stated the original opinion was written for non-tribal members on tribal lands. He added that all of California's lands, even those on federal reservations or tribal lands, are under California's environmental "umbrella."

## **GOOD OF THE MEETING**

- Gary Dymesich, Vulcan Materials, presented information that the U.S. Forest Service was updating forest management plans for four southern California forests. He was seeking communication from the Board to the U.S. Forest Service, to develop an appropriate avenue to incorporate mining into their updated forest management plans.

- Ben Licari, Granite Rock Company, presented information that the Public Utilities Commission (PUC) has made recommendations to get all businesses off line during peak hours to avoid blackouts. He pointed out that many mines' operating permits are established during peak hours, and operating outside of those hours would be a permit violation. Saying that not all lead agencies have been cooperative in offering flexibility or relief, Mr. Licari asked the Board to petition the Governor and/or the PUC to encourage lead agencies to be flexible with those adjustments. He added that effective action needs to be taken immediately.
- Tom Powell, Director of Aggregate Operations for CEMEX in the Los Angeles Basin, reviewed the Soledad Canyon project and stated the Los Angeles County Board of Supervisors are expected to make a project determination on April 24<sup>th</sup>.
- Mining Industry Representatives Linda Falasco, Construction Materials Association; Steve Bledsoe, Southern California Rock Producers; and Denise Jones, California Mining Association greeted and welcomed the Board's new members
- El Dorado County businessman Art Marinaccio spoke to the early history of SMARA and the critical lack of recognition of permitted materials. He asked the Board to seek consideration from the Governor on suspending air quality permit regulations. Mr. Marinaccio added a plea for adding the Weber Creek Mine Site to the AB 3098 list which will allow mine operator Loring Brunius to sell the mine's stockpile material to state agencies. After "the 3098 list" was defined for the new members, Dr. Parrish added that it affects the Public Contracts law and that mine operators must be fully compliant with SMARA to be added to this list.
- Kerry Shapiro, counsel for the CEMEX project in Soledad Canyon, provided specific information on the negotiation meetings between the project proponents and the City of Santa Clarita.
- Rick Putnam, Deputy City Manager for the City of Santa Clarita, added that Mr. Shapiro's review statements were accurate but added that the areas for mitigation have not been resolved.

## **CONTINUED BUSINESS**

### **Item 4**

Acting as lead agency for the City of Desert Hot Springs, Dr. Parrish said that the Board's Notice and Order obligating the Painted Hills mine operator to provide a cost estimate by a certain date was met. He suggested that the Board defer action on the order until the adequacy of the financial assurances has been reviewed by staff.

Board Member Robert Griego moved to defer the hearing until the May meeting.

Board Member Brian Baca suggested giving the DOC staff direction as to the items that warrant specific examination. Directing his comments to Mr. Stober, Mr. Baca suggested review of:

- the various grading pictures to determine accuracy for reclamation
- the type of grade required (loose fill, engineered fill, etc.)
- costs for the maintenance component of the monitoring program

Mr. Jones supported those comments and added:

- the cost of water for dust control, re-contouring, and temporary irrigation to establish hydroseeding, is missing as is the cost to construct and maintain drainage and sedimentation control facilities
- because the costs for both hydroseeding and grading appear to be low, he questioned the validity of the figures and asked for clarifications

Supporting the previously proposed comments, Mr. Ramirez added that the cost for a licensed soils engineer needs to be added if an engineered fill is required by the reclamation plan.

Mr. Griego's earlier motion was seconded and passed by a unanimous voice vote.

## **NEW BUSINESS**

### **Item 3**

Russ Miller summarized the mineral classification program and explained that the five-year plan includes a mix of 10 new classifications, 10 updates to existing classification reports, along with 5 reports that summarize classification results on a statewide or regional scale. He added that the plan has changed from the one submitted to the Committee in that some of the new classification projects' completion dates have been streamlined by the Division's GIS capabilities.

Denise Jones of the California Mining Association voiced support of the proposed 5-year plan and commended the Division of Mines and Geology for the plan's efficiency.

Asserting the impact these reports have on land use planning at the local level, Ms. Jones provided information about Los Angeles County updating their Significant Ecological Area (SEA) plan. She urged the Board to communicate with the County about the importance of designation and classification, as well as how mining can be consistent with the ecological values established in their SEAs.

Mr. Griego moved to accept the revised 5-year classification plan. The motion was seconded and passed by a unanimous voice vote.

### **Item 5**

(This item was recorded and the audiotape is available for review at the Board office during normal business hours.)

Executive Officer Parrish summarized the Board's continuing actions related to the annual mine inspections in El Dorado County and how the County has responded to the inspection findings and recommended corrective measures. After identifying the staff report, Dr. Parrish recognized the just-received County's response document. It was stated that the staff report's corrective measures would be discussed on a mine-by-mine basis, the County would be asked to respond to those specific issues, and the individual mine operator or their representatives could add comments. The specific mines discussed:

- Bear Creek Aggregate Quarry
- Chile Bar
- Cool Cave Quarry
- Eureka Slate Quarry
- Sommerset Sand Mine
- Lawyer Pit
- Snows Road Quarry
- Marin Quarry
- Weber Creek Quarry
- Diamond Quarry

After hearing comments from both the public and the Board, Mr. Ramirez moved to find that the specific deficiencies for some of the above referenced mines remain uncorrected and it is in the power of the lead agency (El Dorado County) to remedy these deficiencies through its SMARA enforcement authority. Mr. Ramirez added that the County has not demonstrated to date that it has taken sufficient enforcement actions to implement correcting these deficiencies. The motion was seconded by Mr. Griego who added that both the County and the operators know what is expected of them and not to waste any more time. Board discussion touched on the use of licensed professionals in mapping for reclamation plans and the poor quality of some survey maps for the mines being discussed. The motion passed by a unanimous voice vote.

Mr. Ramirez then moved to issue a 45-day Notice to Correct (the noted) Deficiencies to El Dorado County pursuant to PRC §2774.4. Adding that if the deficiencies were not corrected in that 45-day period to the satisfaction of the Board, Mr. Ramirez said the Board would then hold a public hearing to determine if it should assume some or all of the County's remaining SMARA powers. The motion was seconded and opened for discussion. After Dr. Parrish clarified that the burden of proof was on the County and Chairman Jones clarified that the County and the Board are the only two parties involved in this issue, the motion was carried by a unanimous voice vote. Providing additional clarification sought by Chairman Jones, Board Counsel William Cunningham said the County could use various actions to persuade that they are taking appropriate actions. He added that it is reasonable for the Board to ask for evidence.

**Item 6**

(This item was recorded and the audio tape is available for review at the Board office during normal business hours.)

Summarizing the Garden Valley Aggregate (GVA) mining issue, Executive Officer Parrish said the site is one that never had a reclamation plan or financial assurances. He said in late 1999 the mine site was declared "reclaimed" by El Dorado County, however residents filed a complaint with the Department of Conservation that post-SMARA issues had not been addressed. Dr. Parrish added that although a Department of Conservation inspection confirmed that there were, indeed, post SMARA compliance issues, the County remains firm in its belief that the mine is no longer subject to SMARA. In closing, he said the Department of Conservation has issued a 15-day notice to the County for enforcement action.

Pierre Rivas, El Dorado County Planner, identified two letters in response to the 15-day notice. He explained that the County previously worked with the GVA mine operator in composing a reclamation plan but the operator withdrew his application before the reclamation plan was completed and approved. The operator intends to develop the site as an industrial site, and Mr. Rivas questioned the Department's ability to retroactively apply this enforcement action policy to a quarry site that has been closed out for over a year. Adding that the GVA site was not included in the group that the Board took over for annual inspections, Mr. Rivas said the County stands by its response to the 15-day notice that no further County action is necessary.

Public comments were received from Mine Operator John Tynes, Garden Valley residents Melissa Vargas, Shawna Hosie, and Ray Oliva. Attorney for Garden Valley residents, Kevin Long explained why the issue was being pursued a year later and defined remedies that would satisfy the residents.

When asked, Executive Officer Parrish recommended that the Board take no action at this time, but allow time for the Department of Conservation to follow through with its administrative action. Mr. Tynes could then file an appeal, if he wished, to the Board. Mr. Cunningham clarified that the staff's recommendation was a prudent avenue of action.

Mr. Baca voiced concern that this process will not provide for a reclamation plan pursuant to SMARA standards.

Representing the California Mining Association, Denise Jones pointed out that many operations fall into a similar category (declared "reclaimed" without a reclamation plan) as the GVA site. She stated knowledge of El Dorado County operating under the direction of Office of Mine Reclamation staff in terms of recommendations as to whether or not a mine site that did not have a reclamation plan could be reclaimed and how one went about that process.

Ms. Jones said the Association was aware of many counties operating under that same guidance from OMR and pleaded that if policy is being changed, these past actions should be evaluated and the issue should be openly discussed to clarify the state's position.

Mr. Ramirez moved to wait for the Department of Conservation to finish taking action before the Board takes action. The motion was clarified that Board consideration and action will be deferred for 60 days. The motion was seconded and passed by a unanimous voice vote.

**Executive Session; Reopening of Public Session and Announcement of Results of Executive Session**

Chairman Jones reopened the public session; Counsel William Cunningham stated the Board discussed ongoing status of pending litigation as identified in the agenda with no actions taken.

After May 10<sup>th</sup> was announced as the next Board meeting date, the meeting was adjourned.

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ALLEN M. JONES, CHAIRMAN

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JOHN PARRISH, EXECUTIVE OFFICER